

February 1, 2010 - Regular Town Council Meeting

At a Regular Meeting of the Town Council of the Town of Middletown, RI, held at the Middletown Town Hall on Monday, February 1, 2010 at 7:05 P.M.

Council President Christopher T. Semonelli, Presiding

Vice Chairman Richard Cambra

Councillor Frank A. Bozyan

Councillor M. Theresa Santos

Councillor Edward J. Silveira, Jr.

Councillor Robert J. Sylvia

Councillor Barbara A. VonVillas, Members Present

Vice Chairman Cambra requested a moment of silence for the people

of Haiti.

Vice Chairman Cambra requested that items #2, #3 and #5 be heard under the Town Council portion of the docket.

CONSENT CALENDAR

- 1. Approval of Minutes – Regular Meeting, January 19, 2010.**

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.

- 2. Communication of Town Administrator, with enclosures, re: Financial Statements for period ending December 31, 2009.**

Councillor Santos requests Town Administrator Shawn Brown to supply the Council funding spent, at its next regular meeting February 16, 2010, for snow plowing overtime and private contractor fees paid, to date.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said financial statements.

3. Memorandum of Acting Tax Assessor, with enclosures, re: Cancellation of taxes for certain Middletown taxpayers.

Councillor Santos requests that Town Administrator Shawn Brown supply the Council funding spent, at its next regular meeting February 16, 2010, for funds paid to the two consultants in the Tax Assessor's office.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

4. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.

5. Application of Newport Polo, Inc. for a Special Event Permit on February 13th and 14th, 2010, Winterfest Beach Polo, Second Beach, on 150'x300' long, flat section of beach near parking access, beginning at 1:00 PM until 3:00 PM (low tide).

Councillor Bozyan announced the event for publicity.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said Special Event permit.

TOWN COUNCIL

Councillor Silveira recused himself from acting of the following item #1 of business, due to a possible conflict of interest.

1. Continued from Regular Meeting, January 19, 2010.

Application of Earnest Budlong dba Backroom Pub/Restaurant, 999 West Main Road for an Amusement License (Live Entertainment – Karaoke – Thursday Nights, DJ- Friday or Saturday Nights & Live Band – Benefits only, by request of function coordinator) for the 2009-2010 licensing year. (NEW) (Town Administrator recommendation attached)

Town Administrator Shawn Brown reviewed his recommendation entered here:

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license as follows: All entertainment must be inside, all doors and windows shall be closed during performances (which is a general restriction placed on all Amusement licenses- May 1, 1995), Karaoke – Thursday nights, DJ – Friday & Saturday nights and Live entertainment – Allowed in conjunction with supporting a public benefit event; license holder is responsible for notifying the Town Council in writing 30 days prior to the event; no amplified music allowed after 11pm.

2. Email communication of Azade Sarah Perin, President, Compact Freedom, with enclosure, re: Proclamation Against Domestic Violence.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said email communication.

Azade Sarah Perin, 246 Hillside Avenue, Newport addressed the Council requesting that Middletown proclaim February 1st as

Domestic Violence Day within the Town.

On motion of Councillor Sylvia, duly seconded, it was voted unanimously to proclaim February 1st as Domestic Violence Day within the Town and direct the Town Clerk to prepare said proclamation to be passed at the next regular meeting of the Council on February 16, 2010.

3. Memorandum of Antone C. Viveiros, Chairman, The Concerned Island Taxpayers Association, re: Request resolution on health care costs.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

4. Communication of John W. Bagwill, 587 Tuckerman Avenue, with enclosures, re: Wind Turbine Ordinance: Restrictions to Protect Designated Districts/Landscapes.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

John W. Bagwill, 587 Tuckerman Avenue addressed the Council noting the countless hours he has spent researching the Wind Turbine issue, making suggestions to the Town Council and Administration to amend the proposed ordinance. Mr. Bagwill requests the council to complete the ordinance, pursue Town owned wind turbines, continue the moratorium for resident turbines and investigate historic districts.

Councillor Santos expressed concern that establishing historic districts within the Town would limit homeowners improvements on their homes, due to restrictions set forth in historic districts.

Town Administrator Shawn Brown explained that wind turbines give an opportunity for farms to continue, as well as businesses due to

high energy costs.

5. Public Hearing (Advertised)

(Public Hearing Remains Open)

An Ordinance of the Town of Middletown (Second Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152 Zoning Code, Article 25A – Wind Energy Conversion Facilities.

Public Hearing remains open.

Town Planner Ronald Wolanski addressed the Council concerning two changes within the proposed wind turbine ordinance both in Section 25A05-Procedure first in (B), second line after the word subsection "B" should be changed to "A", second in (2) Site Plan. first line "(2)" should be changed to "(1)".

Sara Gill, 479 Wolcott Avenue, addressed the Council explaining that we are known as the Ocean State and tourists enjoy the historic sites in the area. Ms. Gill suggests there is no need to indicate a historic district, use language such as non-turbine area.

Shirley Lally, Portsmouth, noted that wind turbines are beautiful and the issue is really concerning jobs and energy. Ms. Lally suggests the height limits within residential areas be lowered.

Donald Mallinson, 201 Fairway Drive, member of the Middletown Wind Turbine Committee, encourages the Council to use wind energy and support the ordinance.

Donald Mosher, 39 Cottage Avenue, Portsmouth, explained that he has a Wind Turbine business and installed the turbines on Ventura Farm in Middletown. Mr. Mosher expressed support for special use permits to obtain a wind turbine within the Town.

Susan Adie, 43 Willow Avenue, explained that all changes made to the environment have been to help residents. Ms. Adie noted that vistas, which include windmills, are beautiful.

Anthony Spiratos, 333 Tuckerman Avenue, addressed the Council noting he is not in favor of wind turbines; explaining there are other ways to be green which have no harmful effects to people.

Richard Price, 9 J.H. Dwyer Drive, noted his agreement with Mr. Spiratos and supports Mr. Bagwill's work. Mr. Price suggests not to adopt the ordinance without strong language to protect historic vistas.

John Bagwill, 587 Tuckerman Avenue, suggested proposed amendments to the wind turbine ordinance and noted five issues 1) establishing a height limit for building mount turbines 2) Impact of Shadow/Flicker removing the word "significant" 3) Sight Plan and Impact to extend beyond 200 feet 4) Height of Town Wind Turbines –

The Town should be allowed more than the ordinance limits and 5) Fall Zone should be expanded to include congested areas (parking lots etc.).

Town Planner Ronald Wolanski clarified responses to Mr. Bagwill's suggestions.

Jeff Thompson, 375 Compton View Drive, owner of Tower Stream Company, which employs 150 people, noted his support of green energy.

Art Benner, 3 Namquid Drive, explained that a decision needs to be made concerning this ordinance.

Peter Tarpgaard, 5 Longmeadow Avenue, Member of the Wind Turbine Committee, noted that a wind turbine would save the Town money. Mr. Tarpgaard expressed concern of limiting wind turbines in certain areas and suggests the ordinance require a special use

permit.

Liz Drayton, 1116 Wapping Road, spoke in support of wind turbines. Ms. Drayton noted the need to compromise and work together to keep historic views within the Town.

Joseph Burke, 333 Tuckerman Avenue, addressed the Council in support of green energy and not sacrificing the beauty of the island.

Christine Forester, 124 Green End Avenue, explained that Middletown would have the first wind turbine ordinance in Rhode Island. Ms. Forester noted that the ordinance addressed all issues and is good for Middletown.

Dave Dittman, 44 Ocean View Drive, noted the need for more safety provisions within the ordinance.

Beth Milham, 108 Champlin Place North, Newport addressed the Council reviewing hurricane destruction noting that not all trees and structures are likely to fall.

David Martland of Silva, Thomas, Martland and Offenberg, 1100 Aquidneck Avenue, representing a property owner within Corporate Park who is considering the construction of a wind turbine. Mr. Martland spoke in support of clean energy and the passage of the ordinance.

Arthur Benner, 3 Namquid Drive, expressed concern that FAA approval is not within the ordinance.

Councillor Bozyan, responding to Mr. Benner, noted that the FAA is addressed within the ordinance.

Council President Semonelli noted he is not in opposition of wind

turbines. Mr. Semonelli suggested protection of scenic vistas be addressed within the ordinance.

On motion of Council President Semonelli, duly seconded, it was voted to- on page 6 section j, the zoning board of review before granting a special use permit will consider relevant matters including potential adverse impacts of wind turbines on scenic vistas especially those mentioned in the 1979 document, "Historic and Architectural Resources of Middletown, Rhode Island: A Preliminary Report" published by the Rhode Island Historical Preservation Commission; and "The Paradise Loop Scenic Highway Stewardship Plan" completed in 2003 by the Rhode Island Scenic Highways Board; Council President Semonelli and Councillor Bozyan voted YES; Vice Chairman Cambra, Councillor Santos, Councillor Silveira, Councillor Sylvia and Councillor VonVillas voted NO to said motion; MOTION FAILED TO PASS.

There being no other persons present desiring to be heard on this matter, public hearing is declared closed.

Town Solicitor Michael W. Miller clarified the amendment to said ordinance.

On motion of Councillor Sylvia, duly seconded, it was voted to adopt the ordinance and amend said ordinance – Section 25A03-Basic Requirements (5) Fall Zone to read as follows: “The fall zone shall be a condition of obtaining a special-use permit for a wind turbine, which may be varied by means of dimensional variance or special-use permit. The fall zone shall be located entirely within the boundaries of the lot on which the wind turbine is located. Except for building-mounted wind turbines no residential occupied building shall be located within the fall zone of a wind turbine.” and to amend 25A05-Procedure first in (B), second line after the word subsection “B” should be changes to “A”, second in (2) Site Plan. first line “(2) should be changed to “(1)”.; Vice Chairman Cambra, Councillor Santos, Councillor Silveira, Councillor Sylvia and Councillor VonVillas voted YES; Council President Semonelli and Councillor Bozyan voted NO to said motion.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to recess said meeting at 8:50 pm.

On motion of Council President Semonelli duly seconded, it was voted unanimously to reconvene said meeting at 9:00 pm.

6. Memorandum of Arthur S. Weber, Jr., Chairman, Planning Board, with enclosures, re: Overlea Farm Subdivision, Gossets Turn Drive (Horan Building Co.) – Recommendation for acceptance of street and improvements for maintenance.

Town Administrator Shawn Brown recommended the Council accept Overlea Farm Subdivision, Gossets Turn Drive and improvements for maintenance.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

7. Resolution of the Council, re: Acceptance of street and

improvements for maintenance – Overlea Farm Subdivision, Gossets Turn Drive.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.

8. Memorandum of Town Administrator, with enclosures, re: Governor's Proposed FY2010 Supplemental Budget – Reduction in Motor Vehicles Excise Tax Phase-out Revenue.

Town Administrator Shawn Brown reviewed the following memorandum entered here:

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

Mr. Brown explained the following Tax Base Challenges entered here:

**9. Memorandum of Town Administrator, with enclosures, re:
Contract Award: Waste Services-Flow Metering Program.**

Town Administrator Shawn Brown reviewed the contract proposal prepared by Woodard & Curran for the Waste Services – Flow Metering Program.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

10. Resolution of the Council, re: Award of Contract for Waste Services – Flow Metering Program.

On motion of Vice Chairman Cambra, duly seconded, it was voted

unanimously to pass said resolution.

11. Memorandum of Town Administrator, with enclosures, re: West Main Road Development Center.

Town Administrator Shawn Brown reviewed the following memorandum entered here:

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

12. Email communication of Town Clerk Town of North Kingstown, with enclosures, re: Requesting regarding a donation to the Rhode Island National Guard Living Memorial – Purchase of a Municipality engraved brick.

On motion of Vice Chairman Cambra, duly seconded it was voted unanimously to receive said email communication.

Town Administrator Shawn Brown informed the Council that a brick will be purchased on behalf of the Town funded by an anonymous donor.

13. Communication of James Cawley, Athletic Director, Rogers High School, re: Request for support by placing an ad in the athletic program.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to purchase a ¼ page ad in the Rogers High School athletic program, \$195. funds to be allocated from the Council Presidents Discretionary fund.

14. Appointment of one (1) member to the Economic Development Advisory Committee for a term expiring January 2013.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reappoint Eileen Spillane Rice to the Economic Development Advisory Committee for a term expiring January 2013.

15. Appointment of one (1) member to the Open Space and Fields Committee for a term expiring November 2011.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Anne Wilson to the Open Space and Fields Committee for a term expiring November 2011.

16. Appointment of three (3) members to the Planning Board for terms expiring February 2013.

On motion of Vice Chairman Cambra, duly seconded, it was voted to

reappoint Jan Eckhart, reappoint Betty Jane Northup-Owen and appoint Charlene A. Rose-Cirillo for terms expiring February 2013.

PUBLIC FORUM SESSION

Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

No one addressed the Council during session.

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4. and 42-46-5. (a) (5) lease (Joel Peckham School), (2) Collective Bargaining

(Police, Fire, Public Works and Town Hall Unions) and (1) personnel (Town Administrator).

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to recess this meeting at 9:17P.M. and reconvene in executive session.

On motion of Vice Chairman, duly seconded, it was voted unanimously to reconvene this meeting in open session at 9:45 P.M.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Attorney Dan Kinder for negotiating purposes.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to

Section 42-46-7. RIGL.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adjourn this meeting at 9:50 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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